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SENATE BILL 301 By
Ramsey

HOUSE BILL 398
By Westmoreland

AN ACT to create the "Northeast Tennessee Corridor Overlay District" in Sullivan County and to repeal Chapter 77 of the Private Acts of 1995.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Short Title - This act shall be known and may be cited as the "Northeast Tennessee Corridor Overlay District Act."

SECTION 2. Legislative Findings - Public and Governmental Character of District - Declaration of Public Necessity.

a. It is declared that a clear need exists in a specific area of Sullivan County, Tennessee, for improved management of the natural and man-made resources required for the attraction, expansion and continued support of industrial and commercial development and the subsequent creation and expansion of employment opportunities for all of Tennessee's citizens through the promotion of business development. To this end, it shall be the purpose of this act to place physical development review responsibilities and other powers specified herein in a specially designated body, and that such body shall have the authority to exercise such powers to more effectively manage the natural and man-made resources to effect the location, expansion and support of the industrial and commercial development within the specific geographic area designated by this act.

b. It is further declared that the Northeast Tennessee Corridor Review Commission created pursuant to this act shall be a public and governmental body acting as an agency and instrumentality of Sullivan County and the City of Kingsport; and that the responsibilities,

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management authority, and other powers designated herein are declared to be for public and governmental purposes and a matter of public necessity.

SECTION 3. Definitions. The following words or terms whenever used or referred to in this act shall have the following respective meanings unless different meanings clearly appear from the context:

a. "Commission" means the Northeast Tennessee Corridor Review Commission created pursuant to the provisions of this act.

b. "County Governing Body" means the chief legislative body of Sullivan County.

c. "Municipal Governing Body" means the chief legislative body for the City of Kingsport.

d. "Municipality" means the City of Kingsport, Tennessee.

e. "County" means Sullivan County, Tennessee.

f. "State" means the State of Tennessee.

g. "Corridor Overlay District" means the Northeast Tennessee Corridor Overlay District.

SECTION 4. Commission Established - Purposes.

a. There is established in Kingsport and Sullivan County, Tennessee, a commission to be known as the "Northeast Tennessee Corridor Review Commission".

b. The Commission shall be established for the purposes of:

(1) Developing and adopting a comprehensive development plan for the Northeast Tennessee Corridor Overlay District delineated elsewhere in this act.

(2) Developing, adopting, and administering site design, architectural design and development standards for the Corridor Overlay District to ensure a high quality living and working environment conducive to the requirements of commercial and industrial business.

(3) Effecting sound development of the designated area, through the construction, renovation or modification of public service facilities in cooperation with the County, Municipality and utility districts as deemed necessary and appropriate for the location, siting, maintenance, and support of the commercial and industrial development.

SECTION 5. Corridor Overlay Zones, Establishment, Definition, Delineation.

a. In order to accomplish the purpose of this act, Corridor Overlay Zones shall be established by the governing body having jurisdiction of the area of the zone, within which the Commission shall exercise powers described herein to effect the purposes of this act. The powers described shall be exercised in cooperation with the County Governing Body and the Municipal Governing Body and other police powers. Both Governing Bodies shall amend their respective zoning authority to establish corridor overlay zones in accordance with the provision of their zoning resolutions and the general law of the state. Where design and development standards, regulations, policies, and procedures are adopted for the Corridor Overlay Zone by the Commission pursuant to this act, such standards, regulations, policies and procedures shall apply, provided that, the permitted and prohibited property uses, zoning, land management procedures and regulations otherwise applicable within the municipal limits shall also apply within the city limits and the permitted and prohibited property uses, zoning, land management procedures and regulations otherwise applicable within Sullivan County shall also apply within the area under the jurisdiction of the county.

b. The geographic area defined as the Northeast Tennessee Commercial and Industrial Corridor and over which the Commission shall exercise its powers shall be that portion of Kingsport and Sullivan County, Tennessee.

SECTION 6. Northeast Tennessee Corridor Review Commission - Sanctioning Authority
- Governing Board - Members - Appointment - Terms.

a. The governing body of the Commission shall be a board of commissioners established in accordance with the terms of this act and charged with the promotion and support of economic- based growth for the Northeast Tennessee Corridor Overlay District in the State of Tennessee.

b. The Board of Commissioners shall be composed of seven members, three of whom shall be appointed by the County Governing Body, three of whom shall be appointed by the Municipal Governing Body and one which will be jointly appointed by both governing bodies.

The County Governing Body shall appoint an architect, the Planning Director, and one member of the County Governing Body to the Commission. The Municipal Governing Body shall appoint an architect, the Planning Director and one member of the Municipal Governing Body to the Commission. The seventh member shall be appointed by both governing bodies. No person, whether or not a land owner or developer, with any property interest in any property within the Corridor shall be nominated for, or appointed to serve, as a commissioner. If, after being appointed, a Commissioner acquires property or any interest in property within the District, such Commissioner shall relinquish his or her position on the Commission and the vacancy shall be filled as set out in this act. The terms of office of the members appointed from the governing bodies shall coincide with their term of office on their respective boards. The remaining commissioners first appointed to the Commission shall be appointed for terms of three, four and five years-respectively, but thereafter each commissioner shall be appointed for a term of five years except as otherwise provided herein. Terms of office shall begin not more than one month after ratification of this act by the governing bodies. Any vacancy by reason of incapacity, resignation or death shall be filled in a like manner for the unexpired term. Subsequent commissioners shall be appointed by the governing body that made the initial appointment, and commissioners may serve more than one term. A resolution of each governing body approving the nominees of the initial Board of Commissioners shall be adopted, and upon approval, the Commission shall be authorized to conduct business.

c. All members of the Commission shall serve without compensation, but may be allowed necessary expenses while engaged in the business of the Commission, as provided and approved by the Sullivan County Executive and the City Recorder of the City of Kingsport.

d. The Commissioners shall elect from its members a Chairman and Vice-Chairman, each of whom shall continue to be voting members, and shall adopt its own bylaws and rules of procedure. A majority of the commissioners shall constitute a quorum for the transaction of business. The initial bylaws and rules of procedure shall be submitted to the County Governing Body and the Municipal Governing Body for approval by majority vote. Any amendments of the

bylaws or rules of procedure of the Commission shall also be submitted and approved by both governing bodies by majority vote.

e. A commissioner may be removed from office for good cause, including voting in matters of personal interest in violation of Tennessee Code Annotated, Section 12-4-101, but only after notice of the cause of such removal has been served upon the commissioner, in accordance with Article 7, Section 1, of the Tennessee Constitution, Tennessee Code Annotated, Section 12-4-102, and the general law.

SECTION 7. General Powers. The Commission shall have the powers necessary to accomplish the purpose of this chapter including, but not limited to, the following:

a. To adopt and oversee implementation of a comprehensive development plan comprised of land use, architectural standards, public facilities, and capital improvement plans for the entire Corridor Overlay Zone for the purpose of developing a systematic land management policy and guidance for any person in the development process;

b. To serve as a review board for the purpose of accepting, considering, approving or denying applications for “certificates of appropriateness” as defined herein, prior to action on requests for rezoning or variance from the provisions of the zoning regulations in effect within the Corridor Overlay Zone, and prior to action on applications for building or grading permits within the Corridor Overlay Zone by any person authorized to issue such permits for Sullivan County or the City of Kingsport in order to ensure that development within the zone is consistent with the policies and plans of the Commission; and to administer and enforce such developmental and architectural standards, regulations, and related rules and procedures as the Commissioners may adopt from time to time for the review and consideration of applications for such certificates, provided, however, that such standards, regulations and rules and procedures are first approved by both the County Governing Body and the Municipal Governing Body.

c. To do all acts and things necessary, or deemed necessary or convenient to carry out the powers expressly given in this act.

SECTION 8. Application for Permits for Construction In Corridor Overlay Zone -
Certificates of Appropriateness.

All Applications for rezoning or variances from the provisions of adopted zoning ordinances, or for permits for construction, alteration, repair, rehabilitation, or relocation of a building, structure or other improvements to real estate situated within the Corridor Overlay Zone, shall be reviewed by the Commissioners, which shall have broad powers to request detailed plans and related data pertinent to thorough review of the proposal. No rezoning or variance to zoning provisions shall be granted, nor shall construction, alteration, repair, rehabilitation or relocation to any building, structure or other improvement to real property situated within the Corridor Overlay Zone be performed without the issuance of a certificate of appropriateness by the Commissioners. No building permit issuing authority in Sullivan County or in the City of Kingsport shall issue any such permit for new structure or improvements within the Corridor Overlay Zone without issuance of a certificate of appropriateness by the Commission.

SECTION 9. Issuance or Denial of Certificate of Appropriateness Guidelines.

a. The Commission shall, as soon as it is reasonably possible, but in all cases within thirty (30) working days following the filing of an application with the required data, grant a certificate of appropriateness with or without attached conditions, or deny the certificate, and shall state the grounds for denial in writing. In its review of applications for certificates of appropriateness, the Commission shall apply its adopted review criteria and standards, rules and regulations and give prime consideration to:

1. The proposed structure's or development's consistency with the comprehensive development plan and development standards jointly adopted by the Commission for the Corridor Overlay Zone;
2. The relationship of the proposed development's design or the proposed structure's exterior architectural features to the surrounding area and/or the character of the entire overlay zone;

3. The general compatibility of the structure or development proposal and its projected impacts on development already in the vicinity of the proposal, as well as those projected and reflected in the adopted comprehensive plan for the zone; and

4. Any other factor, including functional and/or aesthetic, which is reasonably related to the purposes of this act.

b. Failure by the Commission to act on an application within the time required herein shall constitute approval of the certificate, provided, however, that an extension may be granted upon concurrence of the applicant.

SECTION 10. Agricultural Structures and Residential Structures Areas Excluded.

The structures, facilities and land uses identified herein shall not be required to apply for a certificate of appropriateness from the Northeast Tennessee Corridor Review Commission;

a. Agricultural uses and structures or appurtenances located in agricultural zones and used solely for the production of agricultural products for sale to wholesale or retail markets and not part of or functionally related to manufacturing, commercial, or industrial enterprises within the designated Corridor Overlay Zone.

b. All residential structures when such structures are located within subdivisions approved by the appropriate planning commission or otherwise permitted by the general law.

c. Nothing contained in this act shall be construed to require any change, or limit in any way any existing use of land permitted by any zoning in effect at the time of the enactment of this act.

SECTION 11. Appeal of Authority Actions.

Any interested party who is aggrieved by any action of the Commission, including the approval or denial of a certificate of appropriateness, may appeal its decision to the Chancery Court in Kingsport, Tennessee, by filing a Writ of Certiorari within sixty (60) days of the action of the Commissioners. An appeal shall be defended by both the County Attorney for Sullivan County, and the City Attorney for the City of Kingsport with all filing fees, court fees and any litigation expenses being jointly shared by Sullivan County and the City of Kingsport.

SECTION 12. Enforcement of Northeast Tennessee Corridor Review Commission Decisions.

Where a building or structure is erected, constructed, reconstructed, altered, maintained, or used, or any land is used in violation of this act or any regulation or provisions enacted or adopted by the Commission under the powers granted by this act, the Board of Commissioners, the Building Official for Sullivan County, the Building Official for the City of Kingsport, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance, or use. Any action filed under this section shall be jointly prosecuted by the County Attorney and the City Attorney with all filing fees, court fees and any litigation expenses being jointly shared by Sullivan County and the City of Kingsport.

SECTION 13. Construction of Act.

a. The powers, authority and rights conferred by this act shall be in addition and supplemental to any other general, special or local law conferring powers to counties, industrial development corporation or port authorities, and the limitations imposed by this act shall not affect the powers conferred to any county, industrial development corporation or port authority created by any other general, special or local law.

b. This act is remedial in nature and shall be liberally construed to effect its purposes of promoting economic development within and in proximity to the Northeast Tennessee Corridor Overlay Zone as defined herein, facilitating the attraction, siting and support of industries in Kingsport, and encouraging the effective utilization of the natural, educational, and technological resources therein to the ultimate growth and development of commerce and industry in Sullivan County and throughout the State of Tennessee.

c. Nothing in this chapter shall be construed to prevent the extension of the Corridor Overlay Zone into other counties by adoption of similar legislation for such counties, and upon

adoption of such legislation this act should be amended to provide for participation by representatives of that county or those counties on the Board of Commissioners by the appointment of additional members of the Board from either that county or those counties, and by providing for the governing body of such county to serve in all respects as the governing body for the development in such county.

d. If any of the provisions of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of this act which can be given effect without the invalid provision or application, and for that purpose the provisions of this act are separable.

SECTION 14. Chapter 77 of the Private Acts of 1995, and all other acts amendatory thereto, is hereby repealed.

SECTION 15. Ratification.

This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Governing Body of Sullivan County and a two-thirds (2/3) vote of the Municipal Governing Body of the City of Kingsport. Its approval or non-approval shall be proclaimed by the presiding officer of each governing body and certified to the Secretary of State.

SECTION 16. Effective Date.

For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes it shall be effective upon being approved as provided in Section 14.

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